



# ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, September 28, 2022  
Belmont Mill & Zoom  
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook, David Dunham and Sharon Ciampi.

Alternates Absent: John Froumy (E).

Staff: Elaine Murphy and Sarah Whearty.

The Chairman opened the meeting at 6:07pm and welcomed those in attendance and announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

**ABUTTERS HEARING – ROBERT & KATHLEEN MORRILL:** Continuation of a request for two Variances of the Zoning Ordinance to construct a single-family residence on a lot:

A. RSA 674:41 on a lot without frontage. ZBA #3822Z

B. Articles 11.C & 15 on a lot without the required frontage. ZBA #3922Z

Property is located on Federal Street in the “R” Zone, Tax Lot 216-003-000-000.

Mr. Tyson Morrill presented the application.

Mr. Morrill stated that he wants to clarify that the ROW is 16’ wide not 50’.

M. Mastenbrook stated that they have clarification from Town Counsel that the Board is considering the land itself and not the ROW. “The Board should consider whether, either with or without upgrades, the road provides safe and sane access to the property.”

P. Harris stated there are four to five types of ROWs: public, private, service, family and small business. It was determined that the ROW exists on the Bickford property to access the Morrill property. The ROW doesn’t provide frontage only an access. The lot doesn’t have frontage for a buildable lot. Granting the request is unfair to all that have followed the Ordinance over the years.

Mr. Morrill stated he has examples of multiple properties that use ROWs for frontage. There is a 16’ ROW on Union Road so this is not setting a new precedent. He submitted photos of single-

family residences that are similar to his proposal that exist in Belmont. The tax cards show homes built on 16' ROWs. P. Harris wanted to know what the construction dates are, are they rezoning? Mr. Morrill stated he did not know. There are two existing homes at the end of Federal Street, one has 0' of frontage and one needed a variance for a ROW over an abutting lot. P. Harris stated it is hard to talk about them without knowing if it was before or after zoning was enacted. Last month they granted another applicant a variance with no frontage but that was different.

M. Mastenbrook stated that part of the Zoning Board is to grant relief, if we are not allowed to grant relief then the lot is useless and landlocked. We are here to grant relief. There are multiple landlock parcels and if we can't grant relief then the Planning Board should be reviewing them. P. Harris stated that they are reviewing the applications to determine if the variance would threaten the public health, safety or welfare of the public. They have to address the fairness to the public and what the concern of the public were when they voted the Ordinance in. Mr. Morrill stated the concerns were addressed at the last meeting. P. Harris stated it is a tough application and he is concerned about setting a precedent.

D. Dunham stated the Board considered one a few years ago but the ROW was wider than 16.5'. Mr. Morrill stated he wants to build on the land in the future, we're are not proposing a mansion. The width of the ROW restricts future subdivision of the lot.

M. Mastenbrook read the Fire Department's response that the ROW would need to be maintained in order for the Fire Department to access the property in an emergency. Mr. Morrill stated that he will have to sign a Waiver of Municipal Liability.

The chairman opened the hearing to public. There being no further questions or comments the chairman closed the public hearing.

### **BOARD ACTION – ROBERT & KATHLEEN MORRILL:**

**MOTION:** M. Mastenbrook moved to grant approval for a Variance of RSA 674:41 to construct a single-family residence on a lot without frontage as it meets the criteria.

1. The Variance will not be contrary to the public interest because it does not change or alter the essential character of the neighborhood or threaten the public's health or safety.
2. The spirit of the ordinance is observed because it does not change the essential character of the neighborhood or threaten the public's safety and a waiver of municipal liability is required.
3. Substantial justice will be done because there is no proof that the benefit to the individual will cause any harm to the general public.
4. The Variance would not diminish the value of surrounding properties because approving the Variance will only lead to an increase in the value of surrounding properties.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:

- A. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the special conditions of the property create a burden on the property in a manner that is distinctive from all the other properties in the area.  
and
- B. the proposed use is a reasonable one because it does not change or alter the essential character of the neighborhood.

Additional conditions:

- 1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- 2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- 3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
- 4. Before any permits are issued, a waiver of municipal liability shall be signed and recorded, fees paid by applicant.

The motion was seconded by D. Dunham and carried. (4-0-1) P. Harris abstained

**MOTION:** M. Mastenbrook moved to grant approval for a Variance of Articles 11.C & 15 to construct a single-family residence on a lot without the required frontage as it meets the criteria.

- 1. The Variance will not be contrary to the public interest because it does not change or alter the essential character of the neighborhood or threaten the public's health or safety.
- 2. The spirit of the ordinance is observed because it does not change the essential character of the neighborhood or threaten the public's safety and a waiver of municipal liability is required.
- 3. Substantial justice will be done because there is no proof that the benefit to the individual will cause any harm to the general public.
- 4. The Variance would not diminish the value of surrounding properties because approving the Variance will only lead to an increase in the value of surrounding properties.
- 5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
  - A. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the special conditions of the property create a burden on the property in a manner that is distinctive from all the other properties in the area.  
and

- B. the proposed use is a reasonable one because it does not change or alter the essential character of the neighborhood.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
4. Before any permits are issued, a waiver of municipal liability shall be signed and recorded, fees paid by applicant.

The motion was seconded by S. Ciampi and carried. (4-0-1) P. Harris abstained.

**ABUTTERS HEARING –SALLY GRIMARD:** Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to replace a Manufactured Unit closer (15') to the front property than allowed (50'). Property is located at 26 Mountain View Terrace in the "RM" Zone, Tax Lot 121-072-000-000, ZBA #4022Z.

The chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

**MOTION:** P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by D. Dunham and carried. (5-0)

Ms. Sally Grimard and Mr. Eric Anderson were present for this application.

Mr. Eric Anderson stated that Ms. Sally Grimard wants to replace a 50-year-old manufactured unit with a new one. Originally, she wanted a double wide but now she wants to go with single wide with a 4' x 4' platform. They will maintain 15' on the side, it will be in the same spot where it is now but will move back from the road.

The chairman read the Department Heads' concerns. The Land Use Technician commented that the location of proposed Manufactured Home is slightly more conforming and in harmony with the neighborhood and she had no other concerns at this time. The Building Official wanted to know

if it is replaced with double wide will there be enough room for it? There were no other departments responses.

S. Whearty explained that the applicant came to Town Hall today stating that she is going with a single wide unit instead of a double wide. She is here tonight because if she receives approval for the double wide's larger footprint and goes with a single wide unit, and staying within the approved area, she will not have to come back to the Board.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

P. Harris stated replacing the unit is an improvement and creates a safer living place.

**BOARD ACTION – SALLY GRIMARD:**

**MOTION:** M. Mastenbrook moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to replace a Manufactured Unit closer (15') to the front property than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because it does not change or alter the essential character of the neighborhood or threaten the public's health or safety. It will improve the public's health and safety.
2. The spirit of the ordinance is observed because it does not change the character of the neighborhood and it improved the public's health or safety.
3. Substantial justice will be done because there is no proof that the benefit to the individual will cause any harm to the general public.
4. The Variance would not diminish the value of surrounding properties. It will only add to the value of surrounding properties because the existing mobile home is falling apart and replacing it will increase the value.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
  - A. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the special conditions of the property are that the mobile home needs to be replaced and it does not have any distinct conflicts with any other properties in the area.  
and
  - B. the proposed use is a reasonable one because it does not change or alter the essential character of the neighborhood.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.

2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (5-0)

**ABUTTERS HEARING – DAVID & AMY CRIBBIE:** Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to install a pool closer (14.94') to the side property line than allowed (25'). Property is located at 28 Potter Road in the "R" Zone, Tax Lot 215-003-005-000, ZBA #4122Z.

**MOTION:** P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by M. Mastenbrook and carried. (5-0)

The chairman read the Land Use Technician's comments that the topography limits the location for the pool. There were no other comments from department's heads.

Mr. David Cribbie was present for this application.

Mr. David Cribbie stated he needs a variance for 14.94' because of the topography of the land. He has talked to contractors and this is the best area for the pool. The southwest corner of the property has a slope that drops off. On the west side there is a ridge by the driveway. The proposed area is the only suitable area for the pool.

D. Dunham wanted to know if they could rotate the pool to maintain setback or have a smaller pool. Mr. Cribbie stated they would still need a variance because of the location of the leach field.

P. Harris stated the hardship is with the property. He wanted to know if there is any possibility of leveling the southwest side of the property. Mr. Cribbie stated they would have to construct a significant retaining wall to support a structure.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

**BOARD ACTION – DAVID & AMY CRIBBIE:**

**MOTION:** N. Patten moved to grant approval for a Variance of Article 5 Table 2 of the Zoning Ordinance to install a pool closer (14.94') to the side property line than allowed (25') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because the pool installation is being proposed on private land located at the end of a cul-de-sac. The pool will be



- fenced to restrict access to the pool area and will not impose any threat to public safety, welfare, or security.
2. The spirit of the ordinance is observed because all other feasible areas to locate the pool on the property were evaluated prior to seeking a Variance.
  3. Substantial justice will be done because the proposed pool location is positioned away from sloped terrain. The utilities to support the pool system are easily accessible from the existing home. There is a significant benefit to locate the pool in the proposed location and it is not expected that the public will be affected by granting the Variance.
  4. The Variance would not diminish the value of surrounding properties because the addition of a pool to the property will not diminish surrounding property values.
  5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
    - A. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the public will not be affected by the installation of the pool. The pool will be fenced and secured from inadvertent access.  
and
    - B. the proposed use is a reasonable one because the request for a Variance is a reasonable request because, the lot configuration, location of the septic leach field, significantly sloped terrain on the southwest and eastside of the property prevent the pool from being positioned in another location.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by M. Mastenbrook and carried. (5-0)

**ABUTTERS HEARING – DANIEL & KARLENE CLAIR:** Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single-family residence closer (32.11') to the highwater mark than allowed (50'). Property is located at 64 Sunset Drive in the "RS" Zone, Tax Lot 104-045-000-000, ZBA #4222Z.

**MOTION:** P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by D. Dunham and carried. (5-0)

The chairman read the response from the Land Use Technician that the new structure will be more nearly conforming. Drainage will improve by replacing pavement with permeable pavers.

Mr. Brian Pratt and Mr. Daniel Clair were present for this application and submitted new plans.

Mr. Brian Pratt explain they are tearing down the existing house and replacing it. They are pulling the new structure back 32.11' from the highwater mark. S. Whearty clarified that the reason they need a Variance instead of a Special Exception is because they are removing the entire structure.

Mr. Pratt stated there are no comments from Shoreland Bureau. They received a Boundary Line Adjustment approval on Monday, September 26, 2022. This is a small lot on the lake.

M. Mastenbrook stated the garage is attached to the house and they are pulling it back away from the lake. There will be 1,700sf of permeable pavers for the driveway. S. Whearty stated the existing structure almost touches the side property line and they are increasing the setback to 13' from the side line. M. Mastenbrook stated they are improving setbacks all the way around. P. Harris stated it is similar to others in the area. Mr. Pratt stated some houses are smaller and some are bigger. A colonial house is proposed.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

### **BOARD ACTION – DANIEL & KARLENE CLAIR:**

**MOTION:** D. Dunham moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single-family residence closer (32.11') to the highwater mark than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because no construction will occur within any publicly owned parcels, right-of-way parcels, or conserved lands. No structure will be built outside of the subject parcel, and no greater encroachment within setbacks will occur. There will be no disruptions to the surrounding community.
2. The spirit of the ordinance is observed because all developments will bring the parcel more nearly conforming to zoning regulations for the subject parcel.
3. Substantial justice will be done because the functional use of the parcel will remain unchanged, the occupants will remain unchanged, and the parcel will become more nearly conforming to zoning regulations.
4. The Variance would not diminish the value of surrounding properties because the proposed new residence structure is an improvement over the existing structure. No proposed construction will occur outside the above noted subject parcels. No construction will occur on any fencing or other items potentially shared between property lines. No construction will occur on any features on abutting parcels.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:



- a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because this parcel is an existing non-conforming lot, and all proposed developments will bring it to a more nearly conforming status. Existing side setbacks will increase and there will be no decrease in setback to Winnisquam Lake.  
and
- b. the proposed use is a reasonable one because it continues to use the property as a residential property and it does not diminish the use, visibility or otherwise.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by M. Mastenbrook and carried. (5-0)

**ABUTTERS HEARING – DKC REALTY:** Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to create a lot (0.91 acres) with less than the required minimum lot size (1 acre). Property is located at 62 Sunset Drive in the “RS” Zone, Tax Lot 104-046-000-000, ZBA #4322Z.

Mr. Brian Pratt and Mr. Daniel Clair were present for this application.

**MOTION:** M. Mastenbrook moved that the proposal does not have a potential regional impact.

The motion was seconded by S. Ciampi and carried. (5-0)

Mr. Brian Pratt explained that they are doing a Boundary Line Adjustment between 62 & 64 Sunset Drive. They are adjusting the boundary lines for parcel 104-045-000-000 to give the parcel frontage along Sunset Drive. The Boundary Line Adjustment will remove the need for an easement through parcel 104-046-000-000. This will leave lot 104-046-000-000 with less than sufficient to area to meet zoning requirements.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

**BOARD ACTION – DKC REALTY:**

**MOTION:** D. Dunham moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to create a lot (0.91 acres) with less than the required minimum lot size (1 acre) as it meets all the criteria.

1. The Variance will not be contrary to the public interest because no construction will occur within any publicly owned parcels, right-of-way parcels, or conserved lands. No structure will be built outside of the subject parcel, and no greater encroachment within setbacks will occur. There will be no disruptions to the surrounding community.
2. The spirit of the ordinance is observed because all developments will bring the parcel more nearly conforming to zoning regulations for the subject parcel.
3. Substantial justice will be done because the functional use of the parcel will remain unchanged, the occupants will remain unchanged, and the parcel will become more nearly conforming to zoning regulations.
4. The Variance would not diminish the value of surrounding properties because the proposed new residence structure is an improvement over the existing structure. No proposed construction will occur outside the above noted subject parcels. No construction will occur on any fencing or other items potentially shared between property lines. No construction will occur on any features on abutting parcels.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
  - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because this parcel is an existing non-conforming lot, and all proposed developments will bring it to a more nearly conforming status. Existing side setbacks will increase and there will be no decrease in setback to Winnisquam Lake.  
and
  - b. the proposed use is a reasonable one because it continues to use the property as a residential property and it does not diminish the use, visibility or otherwise.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by M. Mastenbrook and carried. (5-0)

**ABUTTERS HEARING – IRENE MACKES:** Request for two Variances of Article 5 Table 2 of the Zoning Ordinance

- A. To replace an existing Manufactured Unit closer (38') to the front property line than allowed (50'). ZBA #4422Z

- B. To construct a detached garage closer (45') to the front property line than allowed (50'). ZBA # 4522Z

Property is located at 55 Perkins Road in the "RM" Zone, Tax Lot 121-025-000-000.

**MOTION:** P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

Ms. Irene Mackes was present for this application.

P. Harris read the department responses from the Land Use Technician and Building Official. The Land Use Technician stated that the location of the proposed home and garage are more nearly conforming. The Building Official stated there is no room to pull into the garage, it is 12 ½' from the garage to the roadway.

Ms. Mackes stated she is removing a nasty trailer that is there with a nice one.

P. Harris stated that people in that area are replacing manufactured units and the Board values the improvements for the health, safety and welfare of the public.

S. Whearty clarified the proposal is for 45' not 44' from the property line making it more conforming. P. Harris stated they have granted other variances in the area.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

### **BOARD ACTION – IRENE MACKES:**

**MOTION:** M. Mastenbrook moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to replace an existing Manufactured Unit closer (38') to the front property line than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because it does not change or alter the essential character of the neighborhood or threaten the public's health or safety.
2. The spirit of the ordinance is observed because it does not threaten the public's safety and welfare because it is not getting closer to the road than the existing structure and it does not change the character of the neighborhood.
3. Substantial justice will be done because there is no proof that the benefit to the individual will cause any harm to the general public.
4. The Variance would not diminish the value of surrounding properties because the proposed development will likely improve the value of surrounding properties.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:

- a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the conformity of the lot does not allow much better use than what is proposed and it is similar to other uses in the area.  
and
- b. the proposed use is a reasonable one because it does not change or alter the essential character of the neighborhood.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by S. Ciampi and carried. (5-0)

**MOTION:** M. Mastenbrook moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a detached garage closer (45') to the front property line than allowed (50') as it meets all the criteria.

1. The Variance will not be contrary to the public interest because it does not change or alter the essential character of the neighborhood or threaten the public's health or safety.
2. The spirit of the ordinance is observed because it does not threaten the public's safety and welfare because it is not getting closer to the road than the existing structure and it does not change the character of the neighborhood.
3. Substantial justice will be done because there is no proof that the benefit to the individual will cause any harm to the general public.
4. The Variance would not diminish the value of surrounding properties because the proposed development will likely improve the value of surrounding properties.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because of the following:
  - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the conformity of the lot does not allow much better use than what is proposed and it is similar to other uses in the area.  
and
  - b. the proposed use is a reasonable one because it does not change or alter the essential character of the neighborhood.

Additional conditions:

1. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
2. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
3. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by S. Ciampi and carried. (5-0)

**ABUTTERS HEARING – GHM PROPERTIES:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a Contractor's Yard in the "R & C" Zones. Property is located at 595 Laconia Road, Tax Lot 224-042-000-000, ZBA #4622Z.

**MOTION:** P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried.

P. Harris stated there are no concerns from the Department Heads.

Mr. Peter Howard and Mr. Andrew Morse presented the application. The members that viewed the site were: P. Harris, N. Patten, D. Dunham, M. Mastenbrook and S. Ciampi.

Mr. Peter Howard explained that he went to ARC to expand the facility. The use is grandfathered and allowed in the "C" and "R" zones by Special Exception. S. Whearty stated the uses are considered grandfathered. It was allowed because the former business had tenants with similar uses. In order to expand the nonconforming use, they need a Special Exception or they need a Special Exception to become legal nonconforming. She explained that the property is unique because the front is in the "C" zone and the back is in the "R" zone.

Mr. Howard stated they will be going to the Planning Board for site plan approval. They will be putting in a new driveway for better egress and ingress to the site. They want to add a new building for storage of the existing landscaping equipment and fleet maintenance. They have NH DES Alteration of Terrain approval. They store snow from off-site clientele and want to expand the snow storage area.

Mr. Howard stated they are improving the maintenance facility. D. Dunham was concerned about snow placement and if the wetlands will be protected from salt. Mr. Howard stated they will be addressing those concerns when they go to the Planning Board but they do use Best Management Practices. They will be storing more materials inside the building. They are a tree cutting service and have surrounded the property with woodchips. Belknap Landscaping has recently been approved by the State as a license fleet maintenance facility.

P. Harris stated the sight distance is improving. S. Whearty stated State DOT and DPW are excited about the new entrance.

S. Ciampi stated this is an existing commercial construction site and questioned why approvals are needed. S. Whearty explained that the proposal is for a new maintenance building which would increase a nonconforming use and that requires a Special Exception.

The chairman opened the hearing to public comment. There being no further questions or comments the chairman closed the public hearing.

### **BOARD ACTION – GHM PROPERTIES:**

**MOTION:** M. Mastenbrook moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a Contractor's Yard in the "R & C" Zones as it meets the criteria.

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The Special Exception criteria set forth in Ordinance Article 13.F. does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke, or other impacts. The activities on this site take place along Route 106 and are isolated by woods. There is going to be no change in the activity and there have not been any complaints from neighbors.
4. The proposed location is of adequate size. The lot is approximately 13 acres which provides plenty of room.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The proposal is changing the entrance and exit which will provide better sight distance along Route 106.
6. The proposal does not overload any existing water, drainage, sewer, or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. The use of the property is not changing and the stormwater and site plan will be addressed by the Planning Board.
7. The proposal does not create excessive demand for municipal services and facilities because there is no usage change.
8. The proposal does not create hazards to the health, safety, or general welfare of the public because the criteria of the location is not changing its format. It is buffered by woods and wetlands and does not create hazards to the health, safety, or welfare of the public.

#### Additional conditions:

9. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
10. Comply with Aquifer Protection Ordinance.
11. The applicant and owner are solely responsible to comply with the approved plan and condition of this approval. Contractors should be sufficiently warned regarding the same.
12. Approval expires on 9/28/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
13. Site Plan approval by Planning Board required.



The motion was seconded by N. Patten and carried. (5-0)

**OTHER BUSINESS:**

**BOARD'S ACTION -MINUTES:**

**MOTION:** On a motion by M. Mastenbrook, seconded by S. Ciampi it was voted unanimously to accept the minutes of August 24, 2022 as written (5-0)

**OCTOBER MEETING:**

S. Whearty informed the Board that at the October meeting the Public Hearings will begin at 7 PM. The meeting will begin at 6PM and will be a workshop with the Town's attorney to go over procedures and address any concerns or questions that the Board has. The Public Hearings will begin after that.

**FAY FAMILY TRUST 107-018-000-000:**

S. Whearty stated that Mr. Fay received ZBA approval for an ADU above a detached garage. He has talked to the Building Official and the slab for the garage will not support a second floor. Mr. Fay is asking if he can turn the garage into an ADU instead of having a garage.

M. Mastenbrook stated that would change the variance. The approval was for a garage with a second floor ADU. S. Whearty stated that she has conferred with counsel and their opinion was that the Board needed to interpret the approval. Her concern is how much the ADU being on the second floor of a garage played a part in the approval.

P. Harris stated that part of the approval was based on parking and it required two parking spaces in the garage. M. Mastenbrook stated that parking is tight in that area.

S. Ciampi stated that a detached ADU was allowed as part of voting this spring.

P. Harris stated there were several discussions about parking and the result was that there would be two cars parked in the garage and two on the side.

S. Ciampi stated it is a one-story garage. Could they jack it up and pour a new slab that could hold the weight? S. Whearty stated they could demolish and rebuild the garage or Mr. Fay could come back to the Board for a detached ADU replacing the garage.

N. Patten wanted to know where they are going to park. They can come back and apply for a detached ADU. M. Mastenbrook agreed that they could come back to the Board or stay with what they were approved for.

D. Dunham stated the approval included having stairs inside the garage, are the stairs going to be outside now and if so, are they going to meet setbacks? Are they going to need stairs if there is no ADU on the second floor?

It was the consensus of the Board that the approval stands as is and if there are any changes Mr. Fay needs to come back to the Board for a different approval. M. Mastenbrook stated Mr. Fay would not need a new survey if the setback doesn't change but he will need a new application. Parking vehicles is a major concern for the Board.

**ADJOURNMENT:**

**MOTION:** On a motion by S. Ciampi seconded by N. Patten it was voted unanimously to adjourn at 7:50 pm. (5-0)

Respectfully submitted,

Elaine M. Murphy  
Land Use Coordinator